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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
| 09/005,594 | 01/12/98 | MAJEED | M P8064-8002 |

HM42/0928
NIKAIKO MARMELSTEIN MURRAY & ORAM
METROPOLITAN SQUARE
SUITE 330 G STREET LOBBY
655 FIFTEENTH STREET N W
WASHINGTON DC 20005-5701

EXAMINER

AZPURU, C

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
| 1615 | 4 |

DATE MAILED: 09/28/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

| | | |
|------------------------------|-------------------------------|-------------------------------|
| Office Action Summary | Application No. 09/005,594 | Applicant(s) Majeed et al. |
| | Examiner Carlos Azpuru | Group Art Unit 1615 |

Responsive to communication(s) filed on _____.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-35 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-35 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Applicants are requested to furnish a paragraph at the beginning of the specification which refers to the parent application serial numbers, filing date, and presents status.

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-35 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-35 of prior U.S. Patent No. 5,744,161. This is a double patenting rejection.

Stanton is cited as a patent of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Azpuru whose telephone number is (703) 308-0237. The examiner can normally be reached on Tuesday-Friday from 6:30 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be

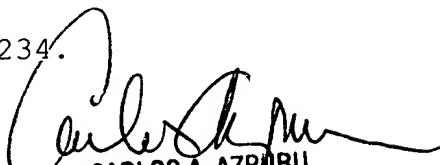
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reached on (703) 308-2927. The fax phone numbers for this Group are (703) 305-3592 and 305-4556. Unofficial faxes (such as proposed amendments to be used for an interview) may be sent to (703) 308-7924 or 7921. Unofficial faxes are intended for papers which will not become part of the official file, and it is requested the Examiner should be contacted in order to ensure prompt attention.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to **[thurman.page@uspto.gov]**.

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1234.



CARLOS A. AZPURU
PRIMARY EXAMINER
GROUP 1500